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12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF CALIFORNIA
14 SAN DIEGO DIVISION

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16 GABRIEL TECHNOLOGIES
17 CORPORATION and TRACE
TECHNOLOGIES, LLC,

18 Plaintiffs,

19 v.

20 QUALCOMM INCORPORATED,
SNAPTRACK, INC. and NORMAN
21 KRASNER,

22 Defendants.

23 Case No. 08-cv-1992 AJB MDD

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**DEFENDANTS QUALCOMM,
INCORPORATED, SNAPTRACK INC., AND
NORMAN KRASNER'S MEMORANDUM OF
POINTS AND AUTHORITIES IN SUPPORT
OF MOTION FOR AN ORDER TO SUBMIT
CERTAIN DOCUMENTS UNDER SEAL**

1 **I. INTRODUCTION**

2 Defendants Qualcomm Incorporated, SnapTrack, Inc. and Norman Krasner (collectively
 3 “Defendants”) respectfully request that the Court seal portions of their Memorandum of Points
 4 and Authorities in Support of *Daubert* Motion to Exclude Testimony and Expert Reports of
 5 Plaintiff’s Experts Anant Sahai and Nenad Medvidovic (“Moving Brief”) and certain exhibits to
 6 the Declaration of Declaration of Timothy S. Teter In Support of Defendants’ *Daubert* Motion
 7 (“Teter Declaration”), both filed on August 10, 2012.

8 **II. PROCEDURAL HISTORY.**

9 On April 21, 2010, this Court issued a Protective Order [Dkt No. 67], the terms of which
 10 were stipulated to by the Parties in this matter.

11 This Protective Order defines as “Confidential” “any document, thing, or information
 12 (collectively “material”) which contains trade secrets or other confidential research, development
 13 or commercial information.” (Protective Order at 1:2-5.) The Protective Order prohibits the
 14 disclosure of Confidential materials except in certain enumerated circumstances. (*See id.* at 6:3-
 15 12:3.) Section 13 of the Protective Order requires all confidential materials to be filed with the
 16 Court under seal and requires any party wishing to file confidential materials under seal to seek
 17 leave of Court pursuant to Civil Local Rule 79.2. The Protective Order further states that “subject
 18 to public policy, and further court order, nothing shall be filed under seal, and the court shall not
 19 be required to take any action, without separate prior order by the Judge before whom the
 20 proceeding will take place, after application by the affected party with appropriate notice to
 21 opposing counsel.” (*Id.* at 19:9-12.)

22 **III. ARGUMENT**

23 Defendants move to file under seal portions of the Moving Brief as well as Exhibits 1, 2,
 24 3, and 4, to the Teter Declaration.

25 The evidence Defendants cite in the Moving Brief falls into two categories of Confidential
 26 information as contemplated by the Protective Order—confidential expert reports and
 27 confidential expert deposition testimony. Exhibits 1 and 3 to the Teter Declaration are the written
 28 reports of Plaintiffs’ experts Anant Sahai and Nenad Medvidovic, respectively. Plaintiffs

1 designated both expert reports Confidential and subject to the Protective Order. Pursuant to
 2 Section 13 of that Protective Order, Defendants seek to file those reports under seal. Defendants
 3 further seek to file the Moving Brief under seal and then to redact from it all references to the text
 4 of those reports in a subsequent publicly-filed version.

5 Exhibits 2 and 4 are excerpts from the Sahai and Medvidovic deposition transcripts,
 6 respectively. Those transcripts have been designated as confidential and must be handled in
 7 accordance with the Protective Order. Pursuant to Section 13 of that Protective Order,
 8 Defendants seek to file those exhibits under seal. Defendants further seek to file the Moving
 9 Brief under seal and then to redact from it all facts derived from those transcripts in a subsequent
 10 publicly-filed version.

11 **IV. CONCLUSION.**

12 Based on the foregoing, Defendants respectfully requests that the Court issue an order
 13 permitting the filing under seal portions of the Moving Brief as well as Exhibits 1, 2, 3, and 4 to
 14 the Teter Declaration. Defendants shall forthwith publicly file a redacted version of the Moving
 15 Brief.

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17 Dated: August 10, 2012

COOLEY LLP

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/s/ Jeffrey S. Karr

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